

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RUTH MUTAHI)	
Plaintiff,)	2:13cv304
)	Electronic Filing
v.)	
)	Judge David Stewart Cercone
)	Chief Magistrate Judge Lisa Pupo Lenihan
CATHOLIC CHARITIES DIOCESE)	
OF PITTSBURGH)	
)	
Defendant.)	

MEMORANDUM ORDER ON DEFENDANT'S MOTION TO DISMISS

The Complaint in the above captioned case was filed on March 1, 2013 and was referred to Chief United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 20), filed on August 9, 2013, observed that Plaintiff's *pro se* Amended Complaint (ECF No. 2) set forth three (3) causes of action which, on the face of the Amended Complaint, failed to state any cognizable claim under the causes of action alleged and/or sought to advance purported claims that clearly were time barred, and that further opportunity to amend would be futile, as it did not appear, given the facts of record, that Plaintiff could make out a plausible claim. Accordingly, it recommended that Defendant's March 21, 2013 Motion to Dismiss (ECF No. 8) be granted.¹

¹ As more fully set forth in the Report and Recommendation, Plaintiff filed a Complaint before this Court on March 1, 2013 (*i.e.*, one day before the four (4) year anniversary of her termination and more than 3-1/2 years after the filing of her State Court Praecipe against the same Defendant for the same employment discharge). She filed an Amended Complaint a few days later. Defendant's Motion to Dismiss was filed on March 21, 2013, and by Text Order of March 22, 2013 (ECF No. 10) Plaintiff was directed to file a response or amended complaint by April

The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, they had fourteen (14) days to file any objections. Plaintiff timely filed Objections to the Report and Recommendation; Defendant timely filed a Response.

Plaintiff's "objection" to the Report and Recommendation is unavailing. Her objection is limited to a request for leave to amend. Filing a complaint does not grant a license to a plaintiff to keep filing submissions until a net is cast wide enough to ensnare the defendant in a claim for relief. At the very least Twombly and its progeny counsel against the use of such tactics and neither plaintiff's "objection" nor her most recent motion to amend provide any grounds to believe that she can overcome the shortcomings highlighted in the Magistrate Judge's Report and Recommendation. Consequently, after de novo review of the pleadings and documents in the case the following order is entered:

AND NOW, this 20th day of November, 2013,

IT IS ORDERED that [8] the Motion to Dismiss filed by Defendant is **GRANTED**.

IT IS FURTHER ORDERED that [20] the Report and Recommendation of Chief Magistrate Judge Lenihan, dated August 9, 2013, as augmented above is adopted as the Opinion of the Court.

11th; she failed to do either. By subsequent Text Order Plaintiff was given "one more opportunity to comply" and to file by April 30, 2013. Plaintiff filed her Brief in Opposition to Defendant's Motion to Dismiss on April 25th (ECF No. 12), and an exchange of Replies by the parties followed.

AND IT IS FURTHER ORDERED that the Clerk of Court is directed to mark this case
CLOSED.

s/**David Stewart Cercone**
United States District Judge

cc: Ruth Mutahi
133 N Street NW
Washington, DC 20005
(*Via First Class Mail*)

Joni M. Mangino, Esquire
Joseph F. Butcher, Esquire
(*Via CM/ECF Electronic Mail*)